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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re J.T., et al., Persons Coming Under
the Juvenile Court Law.

B214736
(Los Angeles County
Super. Ct. No. CK70815)

Y.H., Mother,

Petitioner,

v.

SUPERIOR COURT OF THE COUNTY
OF LOS ANGELES,

Respondent.

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Real Party in Interest.

ORIGINAL PROCEEDINGS; petitions for extraordinary writ. Sherri Sobel,
Referee. Writ denied.

Law Offices of Katherine Anderson, Victoria Doherty and Rebecca Siporen for
Petitioner, Y.H.

Office of the County Counsel, James M. Owens, Assistant County Counsel, and
Navid Nakhjavani, Senior Associate County Counsel, for Real Party in Interest.

Y.H. (mother), mother of four minor children¹ – J.T., Y.A., A.H. and M.S. – petitions for extraordinary relief pursuant to California Rules of Court, rule 8.452. She seeks review of an order setting a permanent plan hearing under Welfare and Institutions Code section 366.26.² Mother asserts that she did not receive adequate reunification services during a 16-month reunification period and should be provided with more. We deny the petition.

FACTS AND PROCEDURAL HISTORY

On November 17, 2007, mother was arrested for child abuse after she whipped, chased or hit several of her children for not promptly cleaning their rooms. The children were detained, and were ultimately placed with their maternal aunt. At the detention hearing, the juvenile court approved the detention and appointed a psychologist to evaluate whether mother posed a continuing threat to the children.

The same day, the Department of Children and Family Services (DCFS) filed a section 300 petition alleging that mother had neglected the children and had abused them by periodically beating each child with a belt, whip or electrical cord, and, on the occasion that led to mother's arrest, using an axe³ to gain access to a bathroom where the oldest child was hiding and then hitting him with the side of a knife, causing several contusions. It was the family's third encounter with DCFS. In 2002, and again in 2004, voluntary family maintenance plans were carried out after abuse and neglect allegations were substantiated as to mother and the maternal aunt with whom mother left the

¹ Mother has a fifth minor child, G.M., who is not a party to this proceeding. G.M. was born after the section 300 petition at issue was sustained. A separate section 300 petition was filed as to G.M. based on mother's abuse of G.M.'s siblings. Mother states that she continues to receive reunification services as to G.M.

² All further statutory references are to the Welfare and Institutions Code.

³ The record indicates it was more likely a hammer or garden hoe.

children for a time. There was also evidence that mother was violent toward other adults.

On January 29, 2008, the juvenile court sustained the petition as to the abuse allegations. It ordered reunification services for mother, who remained in custody. Mother was directed to complete a 52-week parenting class, attend individual counseling to address domestic violence, life and case issues, and attend an anger management program. The children were also to receive individual counseling. DCFS was to provide the therapists with copies of the sustained petition and DCFS reports. Five-minute monitored telephone visits were allowed weekly, to expand to twice-weekly monitored visits should mother be released from custody. Having sustained the petition and granted reunification, the juvenile court indicated it no longer needed the psychologist's report.

At a six-month review hearing, DCFS reported that mother had pled guilty to the criminal child abuse charges, and was sentenced to six months in jail plus five years' probation. She was engaging in weekly telephone visits with Y.A. and M.S. The other two children, J.T. and A.H., refused to speak to her and were struggling to forgive mother's behavior. All the children remained fearful of mother. The social worker had provided mother with counseling referrals, visited mother in jail, and was monitoring the children's progress. Mother was participating successfully in a parenting class while in jail. Because of her continuing incarceration, however, she had not yet enrolled in individual counseling or anger management.

The juvenile court also received a psychiatric report regarding mother that was prepared for mother's criminal defense attorney. The psychiatrist indicated that mother had been the object of abuse when she was a child, and given that background needed to continue in parenting classes and an anger management program. The psychiatrist further recommended that if mother regained custody of her children, the family live in a supervised setting in which skilled staff or a "volunteer grandparent" could monitor them on a 24-hour basis and instruct mother on how to properly care for her children.

As to the children, the psychiatrist suggested individual therapy to deal with their experience of abuse, regardless of whether they reunited with mother.

At the end of the six-month review, the juvenile court found that mother was in compliance with her case plan and that reasonable services had been provided. It then continued reunification services for another six-month period. The court further indicated it had received reports of either mother or the maternal aunt and uncle pressuring the children into visiting mother against their will, and ordered such behavior to cease. Mother did not challenge those rulings.

Mother was released from custody on January 16, 2009. As of February 13, 2009, DCFS reported that she was living with extended relatives of her fifth minor child, and was working part-time. She was also visiting her children weekly at DCFS offices. Monitors observed the children to be engaged with mother but reserved toward her. The children's therapists reported that the children were afraid of returning to mother's custody. Mother had completed parenting while incarcerated, and planned to enroll in another class to continue her program. She had also completed an anger management program while in jail, as well as several other courses in domestic violence, life skills, discipline, problem solving, family maintenance, and job skills. DCFS recommended another period of reunification in which mother could continue her programs, and obtain both individual and conjoint therapy to repair her relationships with the children. Still, DCFS recognized that there remained a high risk of abuse by mother, given her limited contact with the children and access to individual counseling while she was in jail.

In light of that evidence, however, the children's attorney did not believe the court could make necessary findings to justify additional services, such as the likelihood of reunification by the 18-month deadline, and so requested a contested 12-month review hearing. Mother's counsel was dissatisfied with the February 19, 2009 report because it failed to fully document mother's efforts to comply with her case plan. Stating that mother was "100 percent case compliant," counsel requested an updated report from DCFS. The juvenile court also wished to receive additional information on

the children's therapists' views on the propriety of conjoint counseling. Accordingly, the matter was continued.

In a supplemental report dated March 11, 2009, DCFS related that mother had called the children daily, and continued visiting weekly. After the first two visits, however, J.T. and A.H. withdrew from a visitation program and refused to attend such meetings. Mother became visibly upset when they did not come to visits. The childrens' therapists reported that since mother's release, the childrens' behavior had changed. J.T. was acting out at school and at home. He stated he did not wish to reunify with mother. A.H. was distrustful of mother, and thought she was only being nice while the social worker was monitoring their visits. Y.A. appeared to want mother's approval, but was torn over the idea of leaving the maternal aunt for mother's custody. Overall, the therapists indicated that the children did not trust mother, and had divided loyalties between mother and the maternal aunt who was caring for them. The therapists did not recommend conjoint counseling until mother had attended counseling with a licensed therapist for six months, and her therapist deemed it appropriate.

As for compliance with her case plan, the supplemental report reiterated that mother had completed parenting classes and anger management. Further, she had received 75 hours of individual therapy from an intern to the "coach" at the comprehensive jailhouse program she was attending.⁴ Following her release, mother had continued to participate in her courses and therapy through the jail's "off-campus" facility, and was even helping to teach others. Nevertheless, DCFS noted that mother had not truly addressed the issues that led to removal of the children from her care. Mother minimized the abuse, and contended that DCFS and the maternal aunt were "brainwashing" the children against her. Mother felt compliance with the case plan was enough to demonstrate that she had dealt with the case issues. DCFS suggested that an

⁴ A mission statement from the program indicates that its coaches are candidates for masters or doctorate degrees in clinical psychology.

additional 60 days of services, which would take the reunification period to the usual 18-month limit, were in order to permit mother to receive counseling with a licensed therapist and improve her insight into her own accountability for the abuse.

At the contested hearing, however, the juvenile court agreed with the children's counsel that it could not make a finding the children could safely be returned to mother's care within the 18-month period necessary to extending services. The juvenile court observed that by mother's own account she had fully complied with her case plan while in jail, yet she was still blaming others for her situation rather than recognizing her own behavior led to the children's detention. Moreover, there was no reason to believe that another 60 days of services and the increased visitation possible since mother's release from jail would substantially alter the situation. The children were still distrustful of mother, and two did not even wish to see her. Those relationships could not easily be repaired. Thus, the juvenile court found that reasonable reunification services had been provided, but because mother had failed to make sufficient progress toward eliminating the cause of her children's removal, further services would not be in order. A 366.26 hearing was set for July 9, 2009. This petition followed.

DISCUSSION

"Except as provided in subdivision (b), or when the parent has voluntarily relinquished the child, . . . whenever a child has been removed from a parent's or guardian's custody, . . . the juvenile court shall order the social worker to provide child welfare services to the child and the child's mother, and statutorily presumed father or guardians." (§ 361.5, subd. (a).) Court-ordered services may be extended up to a period not to exceed 18 months after the date of the child's initial removal from his parent's or guardian's physical custody. To extend services, there must be a showing at the section 366.21, subdivision (f), hearing that the child will be returned to and safely maintained in the home, within the extended time period.

The juvenile court's findings regarding reunification services are made by a finding by clear and convincing evidence that such services have been provided. (*In re*

Monica C. (1995) 31 Cal.App.4th 296, 306.) This court reviews the juvenile court's findings under the substantial evidence rule. (*Curtis F. v. Superior Court* (2000) 80 Cal.App.4th 470, 474; *Angela S. v. Superior Court* (1995) 36 Cal.App.4th 758, 762.) The appellate court will not reweigh the evidence or exercise independent judgment regarding the ruling, and will view the record in the light most favorable to the findings. Every reasonable and legitimate inference will be construed in favor of the finding. (*In re Julie M.* (1999) 69 Cal.App.4th 41, 46; *In re Misako R.* (1991) 2 Cal.App.4th 538, 545 (*Misako R.*); *In re Matthew S.* (1988) 201 Cal.App.3d 315, 321.) The standard for judging the adequacy of reunification services "is not whether the services provided were the best that might be provided in an ideal world, but whether the services were reasonable under the circumstances." (*Misako R.*, *supra*, at p. 547.) In connection with reunification services, the social worker must make a good faith effort to provide reasonable services "responding to the unique needs of each family." (*In re Monica C.*, *supra*, 31 Cal.App.4th at p. 306.)

Mother contends that DCFS failed to provide adequate reunification services to her by failing to check on the nature of the services she was being provided while in jail, and by failing to provide her individual counselor with a copy of the sustained petition and relevant reports on the juvenile court proceedings. Accordingly, she asserts, the juvenile court's finding of reasonable services must be reversed. Such small deficiencies in the execution of the case plan, however, do not support such a result.

There is substantial evidence to support the juvenile court's finding of reasonable services. Mother was required to attend parenting classes, anger management, and individual counseling. The record shows that she did all three, and much more. Indeed, mother herself argued she was "100 percent case compliant," regardless of her incarceration. Mother now identifies various deficiencies in services. She claims DCFS did not adequately monitor her jailhouse programming, and did not provide her counselors with copies of the sustained petition and relevant reports. But regardless of how closely DCFS monitored mother's programming, the fact is that mother did receive the counseling and classes necessary to comply with her plan.

Although her counselors did not have copies of the sustained petition and relevant reports about the dependency proceeding, there is no showing that the lack of such information made mother's counseling insufficient. Mother was incarcerated for the very same abuse that resulted in the removal of her children and the initiation of the dependency proceedings. Thus, mother's counselors would have been aware of the problems mother needed to address. In fact, they may even have had access to the psychiatrist's report from the criminal court, which further outlined mother's issues with child abuse. Mother cannot show that any imperfections in DCFS's performance made the reunification services insufficient. (*Misako R.*, *supra*, 2 Cal.App.4th at p. 547.)

Mother also points out that DCFS or the juvenile court never followed through with obtaining an independent psychological evaluation as ordered at the initial detention hearing. Once the section 300 petition was sustained, however, the juvenile court indicated it did not need such a report. Moreover, the juvenile court was provided with the psychiatric report prepared during mother's criminal proceeding. Mother failed to object to the juvenile court's consideration of that report at the six-month hearing, when the juvenile court received the alternate report. That was the time to object.

Mother asserts that she should have been given an additional period of reunification services beyond the usual 18-month limit because she was making progress in her case plan and might have been able to reunite with at least one of her children. Counsel for children had argued the because of mother's inability to accept responsibility for her actions, the juvenile court could not find a substantial probability that the children could be returned to mother's custody within the time period. The DCFS recommended that mother receive reunification services, but takes no position on this issue on appeal.

There is sufficient evidence that mother was not progressing in her case plan sufficiently to warrant extended services. She did comply with all the components of her case plan. But there is evidence showing that mother continued to minimize the seriousness of the abuse, and suggested others were causing her children to distrust her. The childrens' therapists recommended against even conjoint counseling with mother at

that time. The childrens' counsel opposed continued reunification services. The children remained fearful of mother. And, mother became visibly upset when two of the children refused to see her, raising an inference that mother could again lose her temper with the children. Notably, all of this occurred despite mother's having gone through two courses of family maintenance services, including parenting classes, in the past. There is evidence that mother had not come to terms with her own accountability for removal of her children, and the children were, at best, torn as to whether they even wanted to see mother again. Therefore, there was substantial evidence that additional services would not have brought this family to the point of reunification. Accordingly, there is sufficient evidence to support the ruling of the juvenile court.

DISPOSITION

The petition for extraordinary relief is denied. This opinion shall become final immediately upon filing.

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MOSK, J.

We concur:

TURNER, P.J.

KRIEGLER, J.